

Record-Keeping Requirements and Procurement Transactions

Purpose:

This instruction sets forth the policy on maintaining procurement transaction records.

Scope:

Sponsors participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), and or Special Milk Program (SMP).

Description:

Regulations at 7 CFR Parts 3016 and 3019, 7 CFR 210.9(b)(17), and the terms of the contract between State Agencies (SA) and each Local Education Agency (LEA), require both SA's and LEA's to retain their program-related records for a period of 3-years from the day the SA's and LEA's final allowable payment under the contract has been recorded. This is true regardless of whether the final payment is recorded prior to the expiration of the contract or subsequent to the expiration date.

When a procurement contract is continued or renewed at annual or other intervals, the retention period for the records of each contract period starts on the day the final payment is recorded in connection with the final renewal. Some State Agencies and Local Educational Agencies incorrectly believe that the 3-year record retention begins with the initial contract execution. The 3-year record retention period does not begin until the final contract renewal period has expired and/or the final payment is recorded, whichever occurs first.

Actions such as bid protests, litigation, and audits may result in an extension of this 3-year record retention period. In all such cases, the records must be retained until: (1) the completion of the action and resolution of all issues arising from it; or (2) the expiration of the regular 3-year period, whichever occurs later.

Adequate procurement methods are a prerequisite for receiving funds. If records generated during the performance of the award do not demonstrate compliance with applicable procurement requirements, several possible penalties may follow: disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other appropriate remedies. Examples of such records include:

- A written rationale for the method of procurement;
- A copy of the Request for Proposal or the Invitation for Bid;
- The selection of contract type (fixed price or cost reimbursable);
- The bidding and negotiation history;

- The basis for contractor selection;
- Approval from the State Agency to support a lack of competition when competitive bids or offers are not obtained;
- The basis for award cost or price;
- The terms and conditions of the contract;
- Any changes to the contract negotiation history;
- Billing and payment records;
- A history of any contractor claims; and
- A history of any contract breaches.

SOURCE: USDA MEMORANDUM, DATED MARCH 10, 2006.